GOVERNMENT OF MADRAS. Sectt. II-28.—60,006—31-10-50.

P. W. (1952) Department.

Endorsement
D.O.
Memorandum
~~Lodged~~

No. 12458 F/52-2

Dated 2-4-1952

FURTHER PAPERS.

Department.	Number.	Series.	Date.

From
J.M. Balmforth, Esq.,
State Port Officer,
Madras-1.

To
The Secretary to Government,
Public Works Department,
Madras.

No.257 G1/52-1, dated 14-2-52.

Sir,

12458

Sub:- Mangalore Port - Enhancement of rates of ground rent on lands leased for over one year - Collection of rent from 1st May 1951 -

Ref:- G.O.Ms.No.1765, P.W. dated 1-5-51 and Government Memo No.72259 F/51-2, P.W., dated 20-10-51.

I invite a reference to G.O.Ms.No.1765, P.W., dated 1-5-51 and Government Memo No.72259 F/51-2, P.W. dated 20-10-51 on the above subject. The question has been raised whether the orders in the Government Memo can be applied to long term leases - (Vide in this connection, para 88(d)(i) explaining the difference between a lease and a licence) - and Grant Orders also.

2. Please see copy of letter No.6342-0 dated 2-1-52 from the Standard Vacuum Oil Company, Madras (enclosed) in which they presume that they are not bound to pay enhanced rental with reference to the G.O. cited. It is considered that it is only equitable that the principle conceded in the Government Memo cited, namely, that in the case of lands leased out for periods of over one year under the terms of licences subsisting on 1st May 1951, the enhanced rates sanctioned in G.O.Ms.No.1765, P.W. dated 1-5-51, become leviable from the date on which the annual licence fee falls due on or after 1st May 1951 under clause 2 of the respective licences, should be extended to long term leases and Grant Orders subsisting on 1st May 1951. I request orders.

3. If the answer to the question raised above is in the affirmative, I presume that under the principle conceded in the Government Memo above, in the case of a plot of land leased under a Grant Order or Lease subsisting, say, for 25 years, as in the Grant Order referred to in the accompanying copy of the Standard Vacuum Oil Co's letter dated 2-1-52, the enhanced rate sanctioned in the G.O. cited will become payable only from the date of expiry of the specified period of 25 years of the Grant Order or lease, as the case may be, and not from the date the annual rental becomes first payable after 1-5-51 under the payment terms of the Grant Order clause (4) or lease deed. I request orders on this point also.

Yours faithfully,

J.M. Balmforth

State Port Officer.

Encls. -2.
1 copy of letter from S.V.O.C.Madras &
1 printed form of the Order of Grant.

P.15.

p.t.o.

2

Letter No.6542-0 dated 2-1-52 from the Standard Vacuum Oil Co., Madras to the Port Officer, Mangalore.

Ground Rent for 80 sq.ft. of port land leased for solder shed.

We refer to your letters 1) L-80/1120/51-8, dated 4-9-51 and (2) 3822/51-1 dated 24-12-1951 and advise that on a perusal of G.O.Ms.No.1765 dated 1-5-1951 referred to by you, it is our understanding that we are not bound to pay an enhanced rental for the following reasons:- 12128

(a) Apparently the revised rates are intended to be applied to sites leased subsequent to the date of the G.O., i.e., 1-5-1951.

(b) The scope of the G.O. is restricted to rentals for lands leased for marine purposes.

(c) Terms of the order of Grant dated 17-4-1950 covering the site, signed by the Presidency Port Officer and annexed to your Memo to us No.2115/49-9 dated 25-4-1950 do not contemplate payment of an enhanced rental during the subsistence of the grant for 25 years effective 16-12-1949.

The said order of grant does not, of course, fix the quantum of the annual cess payable by us and obviously we would be liable to pay you cesses at rates fixed from time to time by the Government.

In the circumstances we shall greatly appreciate your early confirmation that we need not pay an enhanced rental for the site leased to us.

(True copy)

2/3 J.M.Balmforth

State Port Officer.

5 PW(FI)

Memo No 12458 F/52-2 dt 2.4.52

Sub: Ports - Mangalore - Enhancement of rates of ground rent on lands leased for over one year - Collection of rent from 1-5-51

CF Ref from the SPO No. 257 Gl/52-1 dt 14.2.52

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The SPO is informed that the orders in Govt. Memo No. 72259 F/51 dt 20.10.51 will apply to long term leases and Grant Orders.

2. As regards the lease of lands in question to the Standard Vacuum Oil Co, Madras, it is presumed that (the grant has) ~~they have~~ been ~~granted~~ made subject to the conditions specified (specimen form enclosed with the last city) in the order of grant. There is no provision in that order for the variation of the annual payments to be made under clause (4) of the order, during the term for which the grant is made. Clause (19) of the order contemplates the revision of the sum at the end of the term of 25 years for which the lands were originally granted. Under that clause, if and when the grantee desires a renewal of the grant, it will be open to the Govt., at the end of the term of 25 years, to revise the annual payments to be made to them.

3. If it is desired that the sum payable annually under clause (4) of the order should be enhanced even before the expiry of the period for which the lands were granted the consent of the grantee should be taken for such enhancement.

To

The SPO (copy to be forwarded to him)

Ka 25.3.52 Ind 29.5.52

31352

2.4.52

P.W.D.(F)

Sub: Mangalore Port - Enhancement of rates of Ground rent on lands leased for over one year - Collection of rent from 1st May 1951.

Ref: From the S.P.O., No.257 G1/52-1 dated 14-2-1952.

In G.O.No.1765 P.W. dated 1-5-1951, orders were issued enhancing by 50% the existing rates of ground rent leviable at the Port of Mangalore in respect of Port lands rented out for short periods as well as for periods of over one year. In Memo.No.72259 F/51-2 dated 20-10-1951 the Govt. approved the proposal of the S.P to collect rent at the enhanced rate sanctioned in above G.O. on lands leased out for periods over or from the date on which the annual licence fee fall on or after 1-5-1951 under clause 2 of the respective licences. The S.P.O. has now enquired whether the orders in this Memo. can be applied to long term leases also. The intention is that it should apply to long term leases and Grant Orders also. However, in view of the position stated by the S.P.O. in para 3 of his letter on p.1 c.f. it does not appear that the enhanced rates can be collected before the expiry of the period of lease or Grant Order. Please see in this connection the Company's letter — p 2 c.f.

Legal may advise.

LEGAL DEPARTMENT 18 MAR 1952 ASSISTANT SECRETARY

M2458 F/52-1

15.3.52

LEGAL (OPINIONS) D

The lands in question have presum granted subject to the conditions speci order of grant at pp 3-4 c.f. There i in that order for the variation of t' ments to be made under clause (4) o

ASSISTANT SECRETARY 14109 19 MAR 195 LEGAL DEPARTMENT

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during the term for which the grant was made. Clause (19) of the order contemplates the revision of the sum at the end of the term of 25 years for which the lands were originally granted. Under that clause, if and when the grantee desires a renewal of the grant, it will be open to the Government, at the end of the term of 25 years, to revise the annual payments to be made to them.

2. If it is desired that the sum payable annually under clause (4) of the order should be enhanced even before the expiry of the period for which the lands were granted then, as pointed out by this Department at p 2 n.f. of G.O. Ms.No. 1765, Public Works, dated 1-5-1951, the consent of the grantee would have to be taken for such enhancement.

19/3/52 19/3/52

P. W. D.

PW.D

Legal. No. 4109/52-1
D. 20.3.52

PW(G)

Notes above may be perused. A draft reply to the S.P.O. is submitted for approval.

20/3/52 21.3.52

31/3/52

ADDL. ASST. SECRETARY TO GOVT.
20 MAR 1952
PUBLIC WORKS DEPARTMENT

21583

Please examine separately whether a clause cannot be introduced in the specimen order, providing for the alteration in the annual payments, if that should be necessary.

2.4.52

The draft has been issued - vide p 5 cf.
With regs. to D S's orders on p 2 ant
relevant extracts from this file may have been taken
for separate action. These papers may be closed.

Kg
7.4.22
14.4.22

14.4.22